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September 11, 2009

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: GN Docket Nos. 09-29, 09-47, 09-51; RM-11358
Ex Parte Notice

Dear Ms. Dortch:

On Thursday, September 10, 2009, Carl Grivner, Chief Executive Officer of XO Communications, LLC ("XO"), Heather Burnett Gold, Senior Vice President of External Affairs at XO, Lisa Youngers, Vice President, Federal Affairs at XO, A. Richard Metzger, Jr. of Lawler, Metzger, Keeney & Logan, LLC, and I met with Chairman Julius Genachowski, Edward Lazarus, Chairman Genachowski's Chief of Staff, and Priya Aiyar, Chairman Genachowski's Legal Advisor for Wireline Competition and International Issues. At this meeting, XO's representatives described how robust competition is critical to advancing the Commission's broadband goals, including increased broadband penetration, greater innovation, and lower prices. We explained that a competitive broadband marketplace requires efficient access to last-mile facilities and services, bottlenecks that are currently dominated by incumbent local exchange carriers ("LECs"). We also pointed out that today's ubiquitously deployed copper infrastructure is already in place as a solution for the delivery of broadband services throughout the United States. Given its nationwide reach, copper facilities can be used for faster and more cost-effective deployment of broadband than other technologies, including the fiber facilities that currently extend to less than twenty percent of the nation's business locations. We explained that incumbent LECs' premature retirement of copper plant represents a major obstacle to increased broadband access throughout the United States, and urged the Commission to act on the petition filed by XO and a group of other competitive LECs in 2007 requesting that the FCC amend its Part 51 rules governing copper retirement.[1]

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[1] *See* Petition for Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops, XO Communications, LLC; Covad Communications Group, Inc.; NuVox Communications; and Eschelon Telecom, Inc., RM-11358 (Jan. 18, 2007).

Significantly, advances in copper technology have enabled the deployment of "Ethernet Over Copper" ("EoC") technology, which supports data speeds up to 45 Mbps today and possibly greater than 100 Mbps in the future. At the meeting, we provided the Chairman and his staff with a letter that offers additional detail on the development and capabilities of EoC technology. (This letter is attached as part of this written *ex parte* notice.) Certainly, the cost-effective deployment of EoC promises important benefits for small businesses as well as rural areas of the United States that have previously lacked affordable broadband access. This technology will promote regional economic development in rural areas by attracting small, medium, and large employers that require high-speed transmission services.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this *ex parte* notification and the attached letter are being filed electronically for inclusion in the public record of the above-referenced proceedings.

Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

cc: Chairman Julius Genachowski
Edward Lazarus
Priya Aiyar

XO Communications

13865 Sunrise Valley Dirve
Herndon, VA 20171

September 10, 2009

The Honorable Julius Genachowski
Chairman, Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: In the Matter of National Broadband Plan For Our Future -- GN Docket No. 09-51

Dear Chairman Genachowski:

A critical part of the discussion surrounding the development of a National Broadband Plan is how to bring greater broadband speeds to more citizens at cost efficient rates. XO Communications urges the Commission to analyze carefully and critically the advantages of using an existing, almost ubiquitous network asset, copper, as an option for achieving these goals. While copper was and continues to be used for delivering DSL-based services, up to and including T1 access, the development in the last five years of the capability to deploy Ethernet services over copper, at many times the bandwidth of T1s, makes it imperative for the Commission to rethink its policies with respect to copper retirement and access by service providers.

Ethernet is a networking technology whose cost efficiency, greater bandwidth capabilities, and flexibility over Frame Relay and ATM are making it the protocol of choice in all users' broadband networks. Originally used as a means of connecting computers and shared devices over LANS, Ethernet is now being expanded into metro and wide area networks.

Until recently, fiber optic cable was the only way to deliver high-speed Ethernet services to business and residential consumers. The limited deployment of fiber networks to date requires an alternative solution to complement it and to make Ethernet services much more widely available. Twisted-pair copper wiring (plain old telephone line) provides a virtually ubiquitous connection between a consumer's home or business and the incumbent's central office—the "first mile." Running Ethernet over Copper (EoC) is an ideal way to make the most of the existing voice-grade copper infrastructure, within residential neighborhoods as well as business buildings, expanding substantially the reach of broadband services. Using existing copper wire keeps deployment costs to a minimum because it eliminates the need to purchase and install new cabling inside or outside the residence or business.

EoC first became a commercial possibility in June 2004, when the IEEE 802.3 ratified a new amendment to the Ethernet standard – IEEE 802.3ah Ethernet in the First Mile (EFM). One of the solutions used in EFM standardization process is EFM over Copper, or simple EoC. Running over existing wire, EoC can deliver minimum transmission speeds of up to 10 Mbps over a distance of up to 2500 feet and at least 2 Mbps up to 9000 feet. The use of repeaters can enable a provider to maintain those minimum speeds over even greater distances. Further, most EoC systems available today support much higher broadband speeds.

EoC was made possible by introducing a new, important capability to copper-based transmission systems – the ability to utilize more than one copper pair and carry far more bandwidth over the existing copper infrastructure than the currently available DSL products. The EFM Aggregation layer allows multiple pairs to be used as a single, high capacity link, providing a "fiber replacement" in places where fiber does not exist. With loop bonding capability, no customer will be left without high-speed business-class Ethernet service, making Ethernet service ubiquitous.

By using the virtually ubiquitous copper infrastructure, EoC is an easy, low-cost, and immediate way to provide feature-rich, high-speed advanced services to business and residential subscribers. Moreover, these services can coexist with other copper-based services in the same cables, bringing native Ethernet to the first mile over a twisted pair access network.

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For all of the above reasons, XO Communications urges the Commission to include access to copper as a last mile option for competitors in its National Broadband Plan.

Respectfully submitted,

Heather Burnett Gold
SVP – External Affairs
XO Communications, LLC

cc: Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Atwell Baker
Priya Aiyar
Jennifer Schneider
Nicholas Alexander
Carol Simpson
Christi Shewman
Blair Levin
Sharon Gillett